



UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/113,561 08/25/93 ADAMS

T DEKA055

18M2/0723

BENZIUS EXAMINER

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HOUSTON TX 77210

ART UNIT	PAPER NUMBER
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1803

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DATE MAILED:

07/23/96

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Advisory Action</b>	Application No. <b>08/113,561</b>	Applicant(s) <b>Adams et al.</b>
	Examiner <b>Gary Benzion, Ph.D</b>	Group Art Unit <b>1803</b>

**THE PERIOD FOR RESPONSE: [check only a) or b)]**

- a)  expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b)  expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- Appellant's Brief is due two months from the date of the Notice of Appeal filed on \_\_\_\_\_ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

**Applicant's response to the final rejection, filed on 9 May 1996 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:**

- The proposed amendment(s):

- will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- will not be entered because:
  - they raise new issues that would require further consideration and/or search. (See note below).
  - they raise the issue of new matter. (See note below).
  - they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - they present additional claims without cancelling a corresponding number of finally rejected claims.

**NOTE: The cancelation of claims 53 and 54 and the removal of the phrase "a mannitol-1-phosphate dehydrogenase gene" would raise the issue of new matter as the removal of this subject matter would affect the scope of remaining (continued at "other" below).**

- Applicant's response has overcome the following rejection(s):  
\_\_\_\_\_  
\_\_\_\_\_

- Newly proposed or amended claims \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

- The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
\_\_\_\_\_

- The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

- For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: 2-4, 47, 50-58 and 60-67 under appeal as set forth in the Examiner's Answer mailed 7 March 1996

- The proposed drawing correction filed on \_\_\_\_\_  has  has not been approved by the Examiner.

- Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

- Other *Further search and/or consideration would be required to determine if new art would be necessary to meet remaining claim limitations. Cancelation of claim 50, if presented separately, would be entered, obviating the ground of rejection of claim 50 in the Examiner's answer.*

  
**GARY BENZION, PH.D**  
**PRIMARY EXAMINER**  
**ART UNIT 1803**

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**Notification of Non-entry of Reply Brief**

The reply brief filed 9 May 1996 has not been entered because it is not limited to new points of argument or to new grounds of rejection raised in the examiner's answer. See MPEP § 1208.03. Appellant has TWO MONTHS from the date of this communication to petition under 37 CFR 1.181 to request entry of the reply brief.

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**Supplemental**

The instant application was filed under the 08/ series and not the 07/ series. Application should address all references to US application serial No. 08/113561.

**Communications**

Any inquiry concerning this or earlier communication from the examiner should be directed to  
15 Gary Benzion, Ph.D whose telephone number is (703) 308-1119. The examiner can normally be reached on Monday-Friday from 8 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Robinson can be reached on (703)-308-2897.

Any inquiry of a general nature or relating to the status of this application should be directed to  
20 the Group receptionist whose telephone number is (703) 308-0196.

Papers related to this application may be submitted to Group 1800 by facsimile transmission. Papers should be faxed to Group 1800 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number is (703)-305-7401.

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Benzion  
07/22/96

GARY BENZION  
PRIMARY EXAMINER  
GROUP 1800

